

Introduced by Senator Wolk

February 19, 2016

An act to add Article 2.10 (commencing with Section 65891) to Chapter 4 of Division 1 of Title 7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as introduced, Wolk. Conditional use permit: groundwater extraction facility.

The California Constitution requires the reasonable and beneficial use of water and that the conservation of the water resources of the state is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

This bill, by July 1, 2017, would require a city or county overlying a basin designated as a high- or medium-priority basin to establish a process for the issuance of conditional use permits for the development of a groundwater extraction facility in order to prevent a new groundwater extraction facility from contributing to or creating an undesirable result, as prescribed. By increasing the duties of cities and counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 2.10 (commencing with Section 65891) is added to Chapter 4 of Division 1 of Title 7 of the Government Code, to read:

Article 2.10. Aquifer Protection

65891. The Legislature finds and declares as follows:

(a) Groundwater provides substantial water supplies for many farms and communities across the state, particularly in drier years. While in some parts of the state groundwater is very well managed, in other parts there has been substantial groundwater overdraft.

(b) During California's record drought, there has been a substantial increase in the extraction of groundwater resulting in impacts to aquifers.

(c) In 2014, California adopted landmark legislation, the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code), to sustainably manage groundwater resources. The act will not be fully implemented for many years, allowing groundwater overdraft to continue in some regions.

(d) Despite the drought, there has been a substantial and dramatic increase in conversion of existing pastureland and nonirrigated lands to new permanent crops irrigated by new deep groundwater wells. In many parts of the central valley, these new orchards and groundwater wells have caused or contributed to existing groundwater wells drying up. These new groundwater wells exacerbate overdraft in some regions of the state and have harmed and will continue to harm groundwater supplies for existing farms and rural communities and the long-term viability of aquifers.

1 (e) A number of new developments also rely on individual new
2 wells, further stressing overdrafted groundwater basins.

3 (f) The number of new wells supplying significant new demands
4 for groundwater has resulted in alarming subsidence in many areas
5 of California. Subsidence threatens statewide resources and
6 infrastructure such as roads, highways, and aqueducts. Importantly,
7 subsidence may also cause permanent damage to aquifers,
8 threatening groundwater resources for future generations.

9 (g) The lack of protection for aquifers, existing groundwater
10 users, and important infrastructure from the explosive increase in
11 new wells is an issue of statewide importance and requires
12 statewide regulation to avoid undesirable results to groundwater
13 and statewide resources while local communities are working to
14 comply with the provisions of the Sustainable Groundwater
15 Management Act. Preventing undesirable results in a high- or
16 medium-priority basin pursuant to this article and in furtherance
17 of Section 113 of the Water Code is a matter of statewide concern
18 and not a municipal affair, as that term is used in Section 5 of
19 Article XI of the California Constitution. Therefore, this act applies
20 to charter cities.

21 (h) This act is in furtherance of the policy contained in Section
22 2 of Article X of the California Constitution.

23 65891.1. As used in this article:

24 (a) “Basin” has the meaning provided in Section 10721 of the
25 Water Code.

26 (b) “Bulletin 118” has the meaning provided in Section 10721
27 of the Water Code.

28 (c) “De minimis extractor” has the meaning provided in Section
29 10721 of the Water Code.

30 (d) “Department” means the Department of Water Resources.

31 (e) “Groundwater” has the meaning provided in Section 10721
32 of the Water Code.

33 (f) “Groundwater extraction facility” has the meaning provided
34 in Section 10721 of the Water Code.

35 (g) “High-priority basin,” “medium-priority basin,” “low-priority
36 basin,” and “very low priority basin” have the same meaning as
37 the categorization of a basin by the department pursuant to Section
38 10722.4 of the Water Code.

39 (h) “Probationary basin” has the meaning provided in Section
40 10735 of the Water Code.

(i) “Undesirable result” has the meaning provided in Section 10721 of the Water Code.

65891.2. (a) A city or county overlying a basin designated as a high- or medium-priority basin shall do both of the following:

(1) By July 1, 2017, establish a process for the issuance of a conditional use permit for the development of a groundwater extraction facility that imposes conditions on the development of a new groundwater extraction facility in order to prevent the new groundwater extraction facility from contributing to or creating an undesirable result.

(2) Prohibit the issuance of a conditional use permit for a new groundwater extraction facility in either of the following:

(A) A probationary basin.

(B) A basin designated in Bulletin 118 as a basin subject to critical conditions of overdraft.

(b) A conditional use permit for the development of a groundwater extraction facility shall not be required for either of the following:

(1) A de minimis extractor.

(2) The replacement of an existing groundwater extraction facility with a new groundwater extraction facility with the same or a lesser extraction capacity. For the purposes of this article, replacement includes the deepening of a groundwater extraction facility.

(c) A city or county overlying a basin designated as a low- or very low priority basin may adopt an ordinance establishing a process for the issuance of conditional use permits for the development of a groundwater extraction facility in accordance with this section.

65891.3. (a) A city or county shall review an application for a groundwater extraction facility pursuant to the timelines established in the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(b) A fee charged by a city or county to review an application for a groundwater extraction facility shall be determined in accordance with Sections 66014 and 66016.

65891.4. This article does not require a city or county to establish a new process for the issuance of a conditional use permit for the development of a groundwater extraction facility if the city or county has in effect an ordinance adopted before January 1,

1 2017, that imposes conditions on the development of a new
2 groundwater extraction facility in order to prevent the new
3 groundwater extraction facility from contributing to or creating
4 an undesirable result.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of Section
10 17556 of the Government Code.